

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

J&J Sports Productions, Inc.,
a California corporation

Plaintiff,

v.

Civil Action No. 1:09cv490

Corn Exchange LC t/a
100 KING RESTAURANT,
a Maryland Corporation

and

100 KING RESTAURANT,
a Virginia entity

Defendants.

MEMORANDUM IN RESPONSE TO ORDER TO SHOW CAUSE

Plaintiff, J&J Sports Productions, Inc., by counsel, states as follows in response to the Court's November 30, 2009 order requiring it to show cause why this matter should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure:

Plaintiff requests that this Court not dismiss this matter pursuant to Rule 4(m) on the grounds that Plaintiff achieved personal service on Defendant's registered agent on August 24, 2009. See Affidavit of Service at Docket #8. Because of a mistake by the private process server, it appeared to the Court that no service occurred in this matter. Upon discovering the Return on Service was not filed with the Court, Plaintiff immediately requested the private process server file the Return on Service. The Return, showing personal service, was filed with this Court on December 7, 2009.

Further, after investigation, Plaintiff discovered Defendants may be judgment proof. Accordingly, Plaintiff will simultaneously file a Notice of Voluntary Dismissal of this matter along with this Motion.

WHEREFORE, for the foregoing reasons, Plaintiff, by counsel, respectfully requests that this Court not dismiss this matter pursuant to Rule 4(m) and instead dismiss the matter without prejudice pursuant to Rule 41(a)(1)(A)(i).

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of December, 2009, I electronically filed the foregoing Memorandum with the Clerk of Court using the CM/ECF system, and mailed a copy of the foregoing Memorandum to the following:

Raighne Delaney
Registered Agent for Corn Exchange, LC
Bean Kinney & Korman
2300 Wilson Blvd., Suite 700
Alexandria, VA 22201